

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

In re:)	
)	
NATIONAL FISH & SEAFOOD, INC.,)	CHAPTER 7
)	CASE NO. 19-11824-FJB
Debtor)	

**CHAPTER 7 TRUSTEE'S MOTION TO APPROVE SETTLEMENT
STIPULATION BY AND BETWEEN THE CHAPTER 7 TRUSTEE AND
HALLEY ELEVATOR CO.**

John O. Desmond, the Chapter 7 trustee for the bankruptcy estate (the “Trustee”) of National Fish & Seafood, Inc. (the “Debtor”), hereby moves this Court pursuant to Fed. R. Bankr. P. 9019 and MLBR 9019-1 for the entry of an Order approving the Stipulation (the “Stipulation”) By and Between the Chapter 7 Trustee and Halley Elevator Co. (“Halley Elevator”), filed contemporaneously herewith.

In support of this Motion, the Trustee states:

1. On May 29, 2019, the Debtor filed a voluntary petition pursuant to Chapter 7 of the Bankruptcy Code.
2. On May 30, 2019, the Trustee was appointed as the Chapter 7 Trustee of the Debtor’s bankruptcy estate.
3. Within the ninety days prior to the Petition Date, the Debtor made three payments to Halley Elevator in the total amount of \$13,882.00 (the “Transfers”).
4. On October 14, 2019 the Trustee sent a demand letter to Halley Elevator requesting return of the Transfers under Sections 547 and 550 of the United States Bankruptcy Code, or in the alternative, to advise the Trustee of any defenses it claimed for the return of the Transfers.

5. In response to the Trustee's demand, Halley Elevator provide the Trustee with invoices showing that it had a partial new value defense to return of the Transfers of at least \$5,378.00. In light of Halley Elevator's partial defense and the costs and expenses associated with litigation against a small family owned business, the Trustee and Halley Elevator ultimately agreed to settle the Trustee's claim in accordance with the terms of the Stipulation, which provides in relevant part, that Halley Elevator will pay the Debtor's estate \$2,500.

6. Settlements and compromises, under Fed. R. Bankr. P. 9019, are a normal part of the bankruptcy process. *See Protective Comm. For Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *see also Hicks, Muse & Co. v. Brandt (In re Healthco Int'l, Inc.)*, 136 F.3d 45, 50 n.5 (1st Cir. 1998) ("[c]ompromises are favored in bankruptcy").

7. In determining whether to approve a compromise bankruptcy courts consider: (i) the probability of success in the claim being compromised; (ii) the difficulties, if any, to be encountered in the matter of collection; (iii) the complexity of the litigation involved, and the expense, inconvenience and delay attending it; and (iv) the paramount interest of the creditors and a proper deference to their reasonable views in the premise. *See Jeffrey v. Desmond*, 70 F.3d 183, 185 (1st Cir. 1995).

8. The Trustee submits that the resolution outlined in the proposed Stipulation is both reasonable and in the best interest of the Debtor's estate and its creditors. Indeed, the settlement will result in a cash payment to the estate, which in light of Halley Elevator's partial defense and the costs and risks associated with litigation is a reasonable result which likely exceeds any additional net benefit the Trustee could realize through further litigation of the claim.

WHEREFORE, John O. Desmond, the Chapter 7 trustee of the above-captioned bankruptcy estate, respectfully requests that this Court enter an Order (i) approving the Stipulation by and between the Chapter 7 Trustee and Halley Elevator, and (ii) granting any further relief this Court deems just and proper.

Respectfully submitted,

JOHN O. DESMOND, CHAPTER 7
TRUSTEE OF THE ESTATE NATIONAL
FISH & SEAFOOD, INC.,

By his attorney,

/s/ Jonathan M. Horne

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